

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Policy Guidance Letter No. 25, Federal Participation in Land Development at Structural Flood Damage Reduction Projects

1. References:

- a. Executive Order 11988, Flood plain Management, dated 24 May 1977.
- b. ER 1165-2-26

2. Definition: For purposes of this policy guidance letter, land development is defined as the conversion of primarily vacant land (land without significant structural improvements) to more valuable (economically defined) use as a result of a flood damage reduction project. Benefits for land development are usually categorized as "location" benefits and are equivalent to the net change in land value. An example would be the conversion of farmland to residential land as a result of provision of flood protection. Land development does not include cases where land use is the same with or without the flood damage reduction project but would be used more intensively as a result of the project (intensification). It also does not include cases where land use would change without the project and project benefits are achieved through savings in future flood proofing costs or prevention of damages to future development.

3. Background: The treatment of land development benefits has been an issue virtually since the Corps of Engineers received general flood control authority in 1936. Historically the Corps has treated land development benefits as incidental to the primary purpose of flood damage reduction but recognized the benefits as contributing to national economic development (NED) and accruing to the project. Our current guidance places no limits on land development benefits in plan formulation and project justification. However, under the policy for implementing Executive Order 11988, as contained in ER 1165-2-26, it is our policy to avoid direct or indirect support of development in the base floodplain wherever there is a practicable alternative. Recent policy changes on inland navigation, harbor, and shore protection projects have resulted in a decrease in Federal participation in the land development aspects of these projects. This general policy direction, along with an increased emphasis on protecting and restoring environmental quality, has highlighted the need to provide additional guidance on land development and flood damage reduction projects.

4. Policy: The following general policy principles apply to the consideration of land development benefits at structural flood damage reduction projects.

- a. Project or separable increments of projects that achieve only land development (location) benefits do not address the priority purpose of flood damage reduction and, therefore, have a low budget priority. Federal participation in these projects or separable increments will not be recommended.

b. The NED plan will be formulated to protect existing development and vacant property that is interspersed with existing development. All project benefits, including land development benefits for the interspersed vacant property, will be included for project formulation and justification. The NED plan may also provide for the protection of vacant property that is not interspersed with existing development if it can be demonstrated that the vacant property would be developed without the project and benefits are based on savings in future flood proofing costs or reduction in damages to future development.

c. If no project or separable project increment can be economically justified to protect existing development, interspersed vacant property and/or property that would be developed without the project; there is ordinarily no budgetary interest in expanding the area of protection to achieve land development (location) benefits even if net benefits are increased and economic justification can be achieved.

d. A limited exception to policy principles 3a through 3c can be considered in the case where the cost of protecting existing development can be substantially reduced if some vacant property that is not interspersed with existing development is included in the protected area. This situation typically exists where an existing levee or floodwall is being raised to provide a higher degree of protection. These exceptions will be considered on a case-by-case basis. Compatibility with Executive Order 11988 still must be demonstrated. It also must be clear that the primary objective of the project is not land development but the minimization of the cost of protecting existing development.

5. It is important that land development issues be highlighted for discussion and resolution at project reconnaissance and feasibility review conferences. In addition, authorized flood damage reduction projects in preconstruction engineering and design (PED) being considered for a PED start should be examined to determine their compatibility with this policy guidance letter. An issue resolution conference should be considered to resolve any land development issues associated with projects in a PED status.

6. The policy contained in this letter will be incorporated into ER 1105-2-100.

FOR THE COMMANDER:

PATRICK J. KELLY

Major General, USA

Director of Civil Works

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